

Council Chambers
Municipal Building
March 24, 2009

The McAlester City Council met in regular session on Tuesday, March 24, 2009, at 6:00 P.M. after proper notice and agenda was posted, March 18, 2009, at 9:00 A.M.

CALL TO ORDER

Mayor Priddle called the meeting to order.

INVOCATION & PLEDGE OF ALLEGIANCE

- Charles Neff, First United Methodist Church

ROLL CALL

Council Roll Call was as follows:

Present: Chris Fiedler, Donnie Condit, John Browne, Haven Wilkinson, Buddy Garvin, Sam Mason & Mayor Priddle

Absent: None

Presiding: Kevin E. Priddle, Mayor

Staff Present: Mark Roath, City Manager; Peter Stasiak, Planning & Community Development Director; Police Chief Jim Lyles; William J. Ervin, Jr., City Attorney and Cora Middleton, City Clerk

CITIZENS' COMMENTS ON NON-AGENDA ITEMS

None

CONSENT AGENDA

All matters listed under the Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- A. **Approval of the Minutes from the February 24, 2009, Regular Meeting of the McAlester City Council.** *(Cora Middleton, City Clerk)*
- B. **Approval of the Minutes from the March 10, 2009, Regular Meeting of the McAlester City Council.** *(Cora Middleton, City Clerk)*
- C. **Concur with Mayor's appointment of Lee Anderson to the McAlester Economic Development Service, Inc. Board for the term that expires December, 2011.** *(Kevin E. Priddle, Mayor)*

- D. Concur with Mayor’s reappointment of Clyde Pigg to the Fire Protection Board of Appeals for the term that expires September, 2011. (Kevin E. Priddle, Mayor)**
- E. Concur with Mayor’s appointment of Gerald Dunn to the Fire Protection Board of Appeals for the term that expires September, 2011. (Kevin E. Priddle, Mayor)**
- F. Concur with Mayor’s appointment of Cory Richards to the Fire Protection Board of Appeals for the term that expires September, 2011. (Kevin E. Priddle, Mayor)**
- G. Concur with Mayor’s appointment of Randy Saunier to the Fire Protection Board of Appeals for the term that expires September, 2011. (Kevin E. Priddle, Mayor)**
- H. Concur with Mayor’s appointment of Steve Shoup to the Fire Protection Board of Appeals for the term that expires September, 2011. (Kevin E. Priddle, Mayor)**
- I. Approval of Claims for March 11, 2009 through March 24, 2009. (Sherry Alessi, Assistant City Financial Officer) In the following amounts: General Fund - \$125,714.59; Parking Authority - \$148.21; Nutrition - \$783.67; SE Expo Ctr/Tourism Fund - \$10,388.50; E-911 - \$88,541.21 and Economic Development - \$35,916.67.**

Mayor Priddle requested that item “C” be removed for individual consideration.

Councilman Mason requested that item “I” be removed also for individual consideration.

Councilman Fiedler move for approval of consent agenda items “A, B, D through G and H”. The motion was seconded by Councilman Browne. There was no discussion and the vote was taken as follows:

AYE: Councilman Fiedler, Condit, Browne, Wilkinson, Garvin, Mason & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

ITEMS REMOVED FROM CONSENT AGENDA

- C. Concur with Mayor’s appointment of Lee Anderson to the McAlester Economic Development Service, Inc. Board for the term that expires December, 2011. (Kevin E. Priddle, Mayor)**

Vice-Mayor Garvin moved to approve the appointment of Lee Anderson to the McAlester Economic Development Service, Inc. Board for the term that expires December, 2011. The motion was seconded by Councilman Browne.

Before the vote, Councilman Browne read from a prepared statement as follows:

“Let me start by stating that I hold both Mayor Priddle and Dr. Lucy Smith in the highest regard, both have distinguished themselves in their respective fields.

Mayor Priddle, on the advice of Dr. Smith, has chosen to publicly state his intention to abstain on the matter before us. I have to respectfully disagree with this decision.

In a Republic form of government such as we have in the United States, the citizens elect people to represent them, to look out for their best interests, and to make decisions on their behalf. Each member of this council and the Mayor were all elected by the majority of voters in our respective wards, or in the case of the Mayor by a majority of the voters in the city to represent them. Each of us were elected to fulfill this obligation, not just sometimes or when the answers to the questions are easy, but to make the right decisions on the hard questions.

The fact that we were elected is evidence that the majority of voters we represent believe we will make the right decisions on their behalf.

The question that a small but vocal minority of people keep pounding on in this issue is the "conflict of interest" and the appearance of impropriety" clauses of the charter. Both issues have been heard before the city's Ethics Board, of which Dr. Smith is a member. The Ethics Board has found that no conflict of interest or appearance of impropriety exist in this case.

This small group has the hubris to suggest that the Ethics Board which is comprised of 5 very distinguished members of our community, including a retired Colonel, a member with a P.H.D. in education, a Princeton educated civil rights attorney, a Prison Warden, and a very successful Architect, are unable to understand the questions that were asked of them. I would like to take this moment to thank the Ethics Board for their service in what can be a very difficult office.

The problem with the small group of protestors reasoning is their conclusions are based on their pre-supposition of harm to the city. They begin with the belief that bad judgment will be made, even though no evidence supports this belief. They are so entrenched in the past and incidences that occurred then that they are unable to look at the issue clearly.

The actual issue is how do we best represent our constituents. I was elected to make decisions, not to shy away when it may be politically expedient to do so. The people of 3rd ward expect me to represent them. If I do not do so, they can and should take measures to confront me on why I voted as I did. I cannot in good conscience abstain or in essence not vote on their behalf and then look them in the eye. I was elected to do a job and as long as the voters of 3rd ward allow me to, I intend to fulfill that very important task.

In response to those that presume that the potential for conflict of interest or impropriety behavior exist, I want it stated that I take offense to that presumption. This is America, you cannot be judged on what could happen only on what does happen,

If we follow the logic of this small group, at what point would I be allowed to vote? If it is a conflict to vote to put a member on the MEDS board, one whom every single member of the MEDS board has endorsed, would it then not be a conflict to vote on any action involving economic development and MEDS? How would that be representing 3rd ward? Does 3rd Wards opinion not matter when it comes to economic development? This group of people would like to

hamstringing the process to the extent that nothing could be done, because of the potential for conflict of interest in their eyes.

The acceptance of a contribution is not a Quid Pro Quo deal as Mr. Mason likes to state, it is an endorsement of your candidacy. Period. As was stated in the last Ethics Board meeting, a campaign contribution is not a solicitation for special favors. People donate to campaigns for many reasons, a legally made contribution does not somehow become unethical when someone does not like the potential outcome of the vote, I would like to ask this small group of citizens to stop politicizing this process and help us move forward as a city.

As I stated previously, I was put in office to make decisions, and I most certainly intend to do so for the people of 3rd Ward and the City of McAlester.”

Mayor Priddle stated that one of the reasons he would abstain from the vote was he appointed Mr. Anderson and the Council would vote to approve or disapprove the appointment.

Councilman Condit commented that Councilman Browne had brought up something that had helped for him to make his decision on how he planned to vote. He stated that he believed that the press should be the watch dogs for the Council but Mr. Anderson needed to be either a member of MEDS or a reporter. And as a member of MEDS that happens to be a reporter he needed to be more respectful of his comments of the Council.

Councilman Wilkinson and Vice-Mayor Garvin both commented that this was not something that should be a major headline and that it seemed that the only time calls were received was when certain names appeared on the agendas. They both voiced their support of the appointment.

There was no further discussion, and the vote was taken as follows:

AYE: Councilman Condit, Browne, Wilkinson, Garvin & Fiedler

NAY: Councilman Mason

ABSTAIN: Mayor Priddle (counted as no)

Mayor Priddle declared the motion carried.

I. Approval of Claims for March 11, 2009 through March 24, 2009. (*Sherry Alessi, Assistant City Financial Officer*) In the following amounts: General Fund - \$125,714.59; Parking Authority - \$148.21; Nutrition - \$783.67; SE Expo Ctr/Tourism Fund - \$10,388.50; E-911 - \$88,541.21 and Economic Development - \$35,916.67.

Councilman Fiedler moved to approve the Claims for March 11, 2009 through March 24, 2009. The motion was seconded by Vice-Mayor Garvin.

Before the vote, Councilman Mason stated that he thought the claim for \$20,500.00 to MEDS was putting the cart before the horse. He commented that a contract amendment would be in order.

Mr. Ervin stated that the letter from Dr. Miller would suffice to be an amendment, but the Council could amend the contract and submit it to MEDS and then back to the Council.

There was discussion among the Council, Mr. Mills, Mr. Ervin and Mr. Roath regarding the provisions in the contract that could need amended, the attorney's written opinion and the attorney preparing an addendum for the contract, if MEDS regular payment could be made early and if this matter could be added to the agenda for the Special Meeting next Tuesday. There was further discussion concerning MEDS board reviewing the addendum before it came before the Council and the Council considering this matter at the Special Meeting contingent to decision by the MEDS Board.

Councilman Mason moved to remove the \$20,500.00 payment to MEDS from the claims. The motion was seconded by Councilman Wilkinson. There was no discussion, and the vote was taken as follows:

AYE: Councilman Wilkinson, Mason, Condit, Browne & Mayor Priddle

NAY: Councilman Garvin & Fiedler

Mayor Priddle declared the motion carried.

Mayor Priddle requested that Mr. Ervin prepare the addendum and that the contract and the claim come back to the Council at the same time.

Councilman Condit moved to approve the remaining claims and the motion was seconded by Councilman Fiedler.

There was no discussion, and the vote was taken as follows:

AYE: Councilman Garvin, Mason, Fiedler, Condit, Browne, Wilkinson & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

Councilman Browne asked how he could get an accelerated payment for MEDS on the Special Meeting.

Mr. Roath stated that it would depend on getting the information back regarding the addendum.

PUBLIC HEARING

All persons interested in any ordinance listed under Scheduled Business shall have an opportunity to be heard in accordance with Article 2, Section 2.12(b) of the City Charter.

Mayor Priddle commented that there were two (2) items on the agenda that required a public hearing and he asked for a motion to open the hearing.

Councilman Browne moved to open the Public Hearing to consider a rezoning ordinance and an ordinance to amend the section of the Code of Ordinances relating to Competitive Bidding. The motion was seconded by Councilman Fiedler. There was no discussion and the vote was taken as follows:

AYE: Councilman Mason, Fiedler, Condit, Browne, Wilkinson, Garvin & Mayor Priddle
NAY: None

Mayor Priddle declared the motion carried and the Public Hearing was opened at 6:30 P.M.

Steve Harrison addressed the Council regarding his concerns about the ordinance to amend the section of the Code of Ordinances relating to Competitive Bidding. He commented that the amendment was not clear and he felt that it was in conflict with the City Charter.

There were no further comments from the audience or the Council and Mayor Priddle asked for a motion to close the Public Hearing.

Councilman Wilkinson moved to close the Public Hearing. The motion was seconded by Councilman Condit.

There was no discussion, and the vote was taken as follows:

AYE: Councilman Fiedler, Condit, Browne, Wilkinson, Garvin, Mason & Mayor Priddle
NAY: None

Mayor Priddle declared the motion carried and the Public Hearing was closed at 6:40 P.M.

SCHEDULED BUSINESS

1. Presentation of January 2009 Financial Report. (Kevin E. Priddle, Mayor)

Executive Summary

This agenda item involves the Mayor's presentation of the January 2009 Financial Report based on information provided to him by the Finance Department.

Mayor Priddle briefly reviewed the financial report for January 2009 stating that the overall numbers were very good. He added that February looked very similar and the City was doing a good job of keeping the expenses down.

2. Consider, and act upon, an Ordinance amending General Zoning Ordinance No. 1843 (1989) and accompanying map by rezoning Lots 11 thru 22 in Block 29, South McAlester; and West 150' of the South 40' of vacated Buchanan Avenue to Strong Boulevard; and 20' of closed alley from Lots 11 thru 16 and 17 thru 22 in Block 29, South McAlester, Pittsburg County from R1-B (Single-Family Residential) to H-1 (Health Facilities). (Pete Stasiak, Planning and Community Development Director)

Executive Summary

This agenda item involves a rezoning from single family residential to health facilities including a change in the Zoning Map for the properties listed above.

O R D I N A N C E NO. 2315

AN ORDINANCE AMENDING THE GENERAL ZONING ORDINANCE AND ACCOMPANYING MAP THERETO KNOWN AS GENERAL ZONING ORDINANCE NO. 1843 (1989), BY CHANGING THE CLASSIFICATIONS OF THE ZONING DISTRICT FOR: LOTS 11 THRU 22 IN BLOCK 29, SOUTH McALESTER; AND WEST 150' OF THE SOUTH 40' OF VACATED BUCHANAN AVENUE TO STRONG BOULEVARD; AND 20' OF CLOSED ALLEY FROM LOTS 11 THRU 16 AND 17 THRU 22 IN BLOCK 29, SOUTH McALESTER, PITTSBURG COUNTY, STATE OF OKLAHOMA FROM R1-B (SINGLE-FAMILY RESIDENTIAL) TO H-1 (HEALTH FACILITIES).

Councilman Browne moved for approval of **ORDINANCE NO. 2315**, seconded by Councilman Wilkinson.

Before the vote, Peter Stasiak addressed the Council stating that the developer had met all of the requirements and to date there have not been any responses received to the notices regarding this rezoning and the Planning Commission had approved this unanimously.

There was no further discussion, and the vote was taken as follows:

AYE: Councilman Wilkinson, Garvin, Mason, Fiedler, Condit, Browne & Mayor Priddle
NAY: None

Mayor Priddle declared the motion carried.

- 3. Consider, and act upon, an Ordinance amending the Code of Ordinances, Chapter 2, Article VII, amending Section 2-273 related to Competitive Bidding; providing for a Severability Clause; and Declaring an Emergency. (Mark B. Roath, City Manager)**

Executive Summary

This agenda item involves revisions to Section 2-273 of the McAlester Code of Ordinances related to competitive bidding.

ORDINANCE NO. 2316

AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING THE CODE OF ORDINANCES, CHAPTER 2, ARTICLE VII, AMENDING SECTION 2-273 RELATED TO COMPETITIVE BIDDING; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

Councilman Wilkinson moved for approval of **ORDINANCE NO. 2316**, the motion was seconded by Councilman Fiedler.

Before the vote, Mr. Roath explained the changes to section 2-273 stating that section eight (8) was not under consideration to be changed and only the items dealing with purchases less than \$25,000.00 were for consideration to be amended. He added that the additions to the section

were for clarification. He commented that the staff was not authorized to spend anything that had not been budgeted and approved by the Council.

There was discussion among the Council and the City Attorney regarding the changes.

Councilman Mason moved to table this item for the City Attorney to review.

Mr. Ervin commented that he had read the amendment and there was nothing in the wording to indicate any changes to the section that dealt with purchases of more than \$25,000.00.

There was discussion among the Council regarding the language of the amendment, how the amendment was written, the emergency clause, how many quotes were gotten for purchases under \$25,000.00, how low a purchase could be without getting quotes and the purchasing policy.

Mayor Priddle moved to change the format of the amendment so that items two (2) through seven (7) become A through F and section eight (8) become section two (2). The motion was seconded by Councilman Fiedler.

There was no discussion regarding the change, and the vote was taken as follows:

AYE: Councilman Browne, Wilkinson, Garvin, Mason, Fiedler, Condit & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

There was no further discussion on the original motion, and the vote was taken as follows:

AYE: Councilman Fiedler, Condit, Browne, Wilkinson, Garvin, Mason & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

Councilman Mason commented that he had attempted to research this section on the City's website and that particular ordinance had not been updated.

Mr. Roath commented that the City Clerk had been working with Municipal Code, the company that codifies the City's ordinances, to obtain a link to their website.

Councilman Wilkinson moved to approve the EMERGENCY CLAUSE, seconded by Councilman Fiedler.

There was no discussion, and the vote was taken as follows:

AYE: Councilman Wilkinson, Garvin, Mason, Fiedler, Condit, Browne & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

4. **Consider, and act upon, amending the February 10, 2009 list of City equipment and vehicles declared surplus property and include a 1990 Ford Bucket Truck.** *(Mark B. Roath, City Manager)*

Executive Summary

This agenda item involves adding this equipment to the February 10, 2009 list of equipment and vehicles declared surplus property.

Councilman Condit moved to amend the February 10, 2009 list of City equipment and vehicles declared surplus property and include a 1990 Ford Bucket Truck. The motion was seconded by Councilman Browne.

Before the vote, Mr. Roath explained that during the auction this 1990 Bucket Truck had been tentatively sold and when the purchaser went to get the title it was discovered that the vehicle had not been on the list. He stated that the City Attorney had suggested placing this vehicle on the agenda for Council approval as surplus. He added that this vehicle had been taken to the Fleet Maintenance facility and parked, when the vehicles were transported to the EXPO for the auction it was taken also.

There was no other discussion, and the vote was taken as follows:

AYE: Councilman Garvin, Mason, Fiedler, Browne, Condit, Wilkinson, & Mayor Priddle
NAY: None

Mayor Priddle declared the motion carried.

Mr. Roath stated that he appreciated all of the work by the employees with the auction. He added that the auction had brought in over \$42,000.00.

5. **Consider, and act upon, a request by Parent's Club, Inc., for the City to furnish them, at no-charge, a roll-off container and collection service for an unspecified period.** *(John Browne, Councilmember)*

Executive Summary

This agenda item involves a request by Parent's Club, Inc., for a roll-off container and collection service.

Mayor Priddle explained that Councilman Browne had requested that this item be pulled and he would work on this matter through another avenue.

6. **Consider, and act upon, authorizing the Mayor to sign an extension of the Oklahoma Highway Safety Office Project Renewal Request to fund traffic enforcement and purchase of four radar units at a total cost of \$30,000.** *(Jim Lyles, Police Chief)*

Executive Summary

This agenda item involves a grant extension to fund traffic enforcement overtime and purchase of four radar units under the Oklahoma Highway Safety Office Program.

Councilman Browne moved to authorize the Mayor to sign an extension of the Oklahoma Highway Safety Office Project Renewal Request to fund traffic enforcement and purchase of four radar units at a total cost of \$30,000. The motion was seconded by Councilman Condit.

Before the vote, Chief Jim Lyles explained that this was just an extension of the grant that had been approved in November, 2008.

There was a brief discussion among the Council regarding the cost and number of radar guns that would be purchased with the grant funds.

There was no further discussion, and the vote was taken as follows:

AYE: Councilman Mason, Fiedler, Condit, Browne, Wilkinson, Garvin & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

7. Consider and act upon, authorizing the Mayor to sign a Master Services Agreement, including Addendums One thru Four, with Southwestern Bell Telephone d/b/a AT&T Oklahoma for E-911 System upgrades. (Jim Lyles, Police Chief)

Executive Summary

This agenda item involves an agreement to upgrade the 911 System to allow for video, photo and text at a cost of \$184,000.

Councilman Fiedler moved to authorize the Mayor to sign a Master Services Agreement, including Addendums One thru Four, with Southwestern Bell Telephone d/b/a AT&T Oklahoma for E-911 System upgrades. The motion was seconded by Councilman Browne.

Before the vote, Chief Lyles explained that City's current 911 System had been installed in 1989 and it did not accept cellular phone calls. He stated that this upgrade would prepare the City for video, photo and text.

There was a brief discussion among the Council regarding the City Attorney's review of the contract and the improved service this would bring the City of McAlester.

There was no further discussion, and the vote was taken as follows:

AYE: Councilman Fiedler, Condit, Browne, Wilkinson, Garvin, Mason & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

NEW BUSINESS

Vice-Mayor Garvin asked that when anyone presents a printed statement to furnish a copy of the statement to the Council.

CITY MANAGER'S REPORT

Mr. Roath complemented all the work that the City employees had done in preparation of the auction and during the auction. He announced that the Fire Department with the Council's approval had hired a part-time person to help with the ambulance billing. He stated that the Trash Compactor at the Landfill was in operation. The Enhanced Coagulation project at the Water Treatment Plant had been completed. He commented that a list of property for the Council to review had been placed on the agenda for the Special Meeting next Tuesday. Mr. Roath stated that a presentation of the inspection of the City's above ground water tanks was also on the agenda.

REMARKS AND INQUIRIES BY CITY COUNCIL

Councilman Wilkinson stated that he had attended the Fourth (4th) Ward Pride In McAlester meeting and he thanked everyone that had participated.

Vice-Mayor Garvin expressed his appreciation for the cleanup work in Fifth (5th) Ward and stated that he would not be able to attend the Special Meeting due to a family matter.

Councilman Mason announced that the Sixth (6th) Ward meeting would be Thursday at 6:00 P.M. in the Vo-Tech Auditorium. He added that the focus of the meeting would be the Main Street Program and that the Director would present the program. He commented that this meeting would not be the same forum as the previous meetings and he invited Mr. Roath and Mr. Stasiak to attend the meeting.

Councilman Fiedler announced the Choctaw Nation of Oklahoma's 2nd Annual Career Expo at the Southeast Expo Center on Tuesday, March 31, 2009. He expressed his appreciation to the Council for approving the zoning change.

Councilman Condit expressed his appreciation of Mr. Roath and the other City employees for their prompt response to requests.

Councilman Browne expressed his appreciation of Mr. Stasiak's work on West Cherokee. He stated that he had spoken with A-OK Railroad about the crossing on "D" Street and the crossing on "A" Street would be addressed in the future. He asked if it would be possible to have some of the bumps at the "A" Street crossing knocked down. He then asked Mr. Roath if he knew where the Wise Eyes program stood.

Mr. Roath commented that the group was meeting with Krebs and the Sheriff's' Department.

Mayor Priddle congratulated Mr. Stasiak on his first four (4) weeks at the City. He commented on the meeting about the possible 918 area code change. He stated that there would have to be a modification to the area code before the end of 2011. He stated that the Oklahoma Corporation Commission had not decided what it would do. He announced the "Shattered Dreams Program at the McAlester High School concerning the effects of alcoholism and drunk driving. He stated that Ryan's Run would be Saturday, April 4, 2009. Mayor Priddle announced the Great Oklahoma Trash Off on April 18th. He stated that he would like to have 500 people out on one day picking up trash. He then recognized and thanked the three (3) young people in the audience

that were in attendance. Their sponsor stated that they were with the Choctaw Nation Pittsburg County Youth Advisory Board.

Councilman Browne congratulated Mayor Priddle for receiving the F.D. Moon Education Award.

RECESS COUNCIL MEETING

Mayor Priddle asked for a motion to recess the Regular Meeting to convene the Authorities.

Councilman Mason moved to recess the Regular Meeting and convene the Authorities. The motion was seconded by Vice-Mayor Garvin and the vote was taken as follows:

AYE: Councilman Wilkinson, Garvin, Mason, Fiedler, Condit, Browne & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried, and the Regular Meeting was recessed at 7:44 P.M.

RECONVENE COUNCIL MEETING

The Regular Meeting was reconvened at 7:45 P.M.

ADJOURNMENT

There being no further business to come before the Council, Councilman Fiedler moved for the meeting to be adjourned, seconded by Councilman Browne. The vote was taken as follows:

AYE: Councilman Browne, Wilkinson, Garvin, Mason, Fiedler, Condit & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried, and the meeting was adjourned at 7:46 P.M.

Kevin E. Priddle, Mayor

ATTEST:

Cora Middleton, City Clerk